

FILED 09 AUG 25 15:02 USDC-ORM

UNITED STATES DISTRICT COURT

DISTRICT OF OREGON

IN RE ALPHA TELCOM, INC., et al.)	CV 01-1283-PA
)	
)	ORDER

PANNER, J.

Ernest Bustos moves, pursuant to the Equal Access to Justice, 28 U.S.C. § 2412 ("EAJA"), for "payment of attorneys fees and expense related to an action brought by the SEC"

An application for fees and expenses under EAJA is due "within thirty days of final judgment in the action"

28 U.S.C. § 2412(d)(1)(B). EAJA defines "final judgment" as a judgment that is final and not appealable. 28 U.S.C. § 2412(d)(2)(G).

The mandate of the Ninth Circuit Court of Appeal was filed on February 11, 2008. No petition for writ of certiorari was filed. Any request for fees and expenses under EAJA was due no later than 120 days after issuance of the mandate. See 28 U.S.C.

§ 2101(c) (allowing ninety days to file petition for writ of certiorari).


This motion for attorney fees was filed August 21, 2009, more than fourteen months after the deadline had expired. As the motion is untimely, the court does not address the merits of the application or whether Bustos is eligible for an award of fees and expenses under EAJA.

Conclusion

The Motion (# ⁹²⁵~~924~~) by Ernest Bustos seeking payment of attorney fees and expenses under EAJA is denied.

IT IS SO ORDERED.

DATED this 25 day of August, 2009.

A handwritten signature in black ink, reading "Owen M. Panner". The signature is fluid and cursive, with a long horizontal line extending to the right.

Owen M. Panner
United States District Judge